

## REMARKS

Applicants appreciate the indication by the Office that the rejections of the previous Office Action have been withdrawn in response to applicants' amendments to the claims. A new rejection is made. Claims 1-48 are rejected under 34 U.S.C. §103 from van Amerongen U.S. Patent No. 6,117,475 in view of Seiden U.S. Patent No. 3,595,673 and further in view of Yang U.S. Patent No. 4,832,875 and the excerpt from Bailey's Industrial Oil & Fat Products, edited by Swern. This rejection is a totally new rejection that incorporates references not heretofore applied or cited. Applicants accordingly request entry of this Amendment Under Rule 116 as placing the application into condition for allowance or placing same into better form for appeal. Alternatively, withdrawal of the finality of the present Office Action is respectfully requested in order to provide applicants an adequate opportunity to respond to this new rejection.

The present Amendment requests cancellation of various claims and reduces the number of independent claims. These Amendments result in the presentation of a single independent composition claim, a single method for making independent claim, and a single independent method for using claim.

Each independent claim incorporates the following features:

1. The interesterified structured lipid component is a liquid that displays a solids fat content that is **substantially liquid at 10°C**, support therefor being found in paragraph [0014] on page 6 of applicants' specification.
2. In addition to specifying that the interesterification reactant charge includes a medium chain "triglyceride", the independent claims also specify that **the long chain domestic oil is a triglyceride**, this being a

known characteristic of long chain domestic oils and a distinction from fatty acid structures that are not triglycerides.

3. In addition to having a **Brookfield viscosity** at 20°C of between about 20 and 52 centipoise, the liquid structured lipid component has a **smoke point** of at least about 195°C (at least about 383°F), support therefore being found in, for example, original claim 10.
4. The claimed oil composition of the liquid structured lipid and the phytosterol ester component is a **liquid oil composition**, support therefor being found, for example, in original claim 15 and paragraph [0056] on page 19 of applicants' specification.

The new primary reference van Amerongen teaches phytosterol-fortified margarine, which the Office points to as a basis for the present rejection. Margarines are not liquid as that term is defined in applicants' present independent claims. Margarine is well known as a plastic product. Furthermore, van Amerongen has no suggestion of replacing its margarine with a liquid edible oil component, and clearly not a liquid interesterified structured lipid component as specified in each of applicants' independent claims. In addition, van Amerongen does not teach the claimed combination of relatively low viscosity and relatively high smoke point that is specified in each of the independent claims.

These differences are important and provide unique results. As pointed out in paragraph [0014] of applicants' specification, the liquid structured lipid component that applicants claim has been found by applicants to be very suitable for combining with phytosterol esters as applicants claim in order to provide lipid plus phytosterol

compositions that are liquid at room temperature and below. Also, this claimed combination delivers the phytosterols into the body with enhanced functionality, with the MCT structure fostering oil metabolism within the body. Included as a positive effect is minimizing adipose tissue deposition. See paragraphs [0044] and [0043] of applicants' specification.

Also, as described in some detail in applicants' Example 15, the claimed compositions achieve phytosterol delivery enhancement to a very significant extent, ranging between an enhancement of 4.5 times to a 7-fold increase in phytosterol delivery into the body. The liquid composition and the MCT-based liquid structured lipid component achieve these important benefits that are not possible with the plastic margarine teaching of van Amerongen.

The Office then relies upon Seiden, in effect taking the position that Seiden teaches applicants' claimed structured lipid component. However, Seiden does not disclose or teach applicants' claimed liquid structured lipid component. Although Seiden does mention interesterification, the interesterification is not of the reactant charge **triglyceride components** claimed by applicants. Seiden teaches randomly esterified triglycerides that are made by **combining fatty acids and glycerine**. The C<sub>12</sub> and C<sub>16</sub>-C<sub>18</sub> or the like fatty acids of Seiden are not themselves triglycerides. Instead, they react with the glycerine to form the randomly esterified triglyceride of Seiden. Seiden does not teach a structured lipid component as applicants claim. There is no reaction product from a medium chain triglyceride and a long chain domestic oil triglyceride.

Furthermore, Seiden does not teach applicants' claimed liquid structured lipid component. Seiden refers to its products as a hard butter having an SCI of at least 66 at a temperature on the order of room temperature. This is **not a liquid oil composition**. This is not a liquid structured lipid composition that has a solids fat content substantially liquid at 10°C.

Aside from teaching the making of a hard butter by interesterification, Seiden follows the same teaching as van Amerongen. Whether the edible fat component is characterized as a margarine (as in van Amerongen) or as a hard butter (as in Seiden) this combination of references does not teach an interesterified liquid structured lipid component that displays a solids fat content that is substantially liquid at 10°C. Nor does this combination teach a liquid structured lipid component made from medium chain triglyceride interesterified with long chain domestic oil triglyceride. Nor does this combination teach an oil composition of a liquid structured lipid and phytosterol ester that is a liquid oil composition. Nor does this combination of references teach a liquid structured lipid composition having the viscosity and smoke point characteristics as presently claimed.

The remaining secondary references do not remove these significant deficiencies of the primary and first secondary reference. Yang is cited by the Office as teaching that medium chain triglycerides may provide added health benefits of improving one's lipid profile. While Yang might recognize that MCTs have potential for health benefits, Yang does not teach implementing these benefits in a manner claimed by applicants. Yang teaches developing tailored triglycerides with reduced caloric value and improved autoignition characteristics. The deficiencies of the primary and first secondary

reference remain. In addition, Yang recognizes the low smoke point limitations of MCTs. However, **Yang teaches that this problem with MCTs is to be overcome by incorporating unsaturated fatty acids into the MCT profile.** This is an approach that is entirely different from the interesterification of medium chain and long chain triglycerides claimed by applicants and discussed herein.

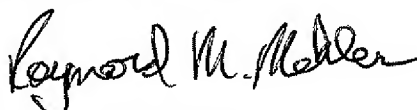
Swern merely reports certain viscosity data for **individual fatty acids** or fatty acid salts. This has nothing to do with the unexpected low viscosity and liquid characteristics of applicants' claimed liquid structured lipid components that are complexed interesterified products of two different triglyceride systems.

The remaining secondary references do not remove the substantial and significant deficiencies of van Amerongen or van Amerongen plus Seiden.

Reconsideration and withdrawal of the § 103 rejection are respectfully requested.

Applicants have made an earnest endeavor to place all of the claims of this application into allowable form, and favorable consideration is requested.

Respectfully submitted,



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Dated: September 11, 2007